

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

WALTER WRIGHT,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 12-579V

Special Master Christian J. Moran

Filed: October 25, 2013

Attorneys' fees and costs; stipulation
of fact; award in the amount to which
respondent does not object

Donald P. Edwards, Law Office of Donald P. Edwards, Atlanta, GA, for petitioner.

Darryl R. Wishard, United States Department of Justice, Washington, DC, for respondent.

UNPUBLISHED DECISION ON FEES AND COSTS¹

Petitioner Walter Wright filed a stipulation of fact concerning final attorneys' fees and costs in the above-captioned matter on October 22, 2013. Petitioner informally submitted an application for attorneys' fees and costs to respondent. Following informal discussions, petitioner amended the amount requested. Petitioner requests \$13,000.00 for attorneys' fees and costs. In compliance with General Order #9, petitioner states that he incurred no costs in pursuing his petition. Respondent does not object to the total amount requested. The Court awards this amount.

Mr. Wright filed his petition on September 10, 2012, alleging that he suffered from muscle weakness and hearing loss, and was diagnosed with pneumococcal bacterial meningitis, caused by the influenza vaccine he received on September 10, 2009. On October 18, 2013, petitioner filed a stipulation of voluntary dismissal. An Order Concluding Proceedings pursuant to Vaccine Rule 21(a) was issued on October 22, 2013.

Although Mr. Wright's petition was dismissed, a petitioner who brings his petition in good faith and who has a reasonable basis for the petition may be awarded attorneys' fees and

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

costs. See 42 U.S.C. § 300aa—15(e)(1). Mr. Wright’s medical records contain two pre-petition notations concerning his belief that his condition was related to the influenza vaccine he received in September 2009. Exhibit 3 at 75, 91. Although Mr. Wright did not file an expert report to support his petition, his counsel consulted with a doctor who expressed an interest in whether Mr. Wright had been properly diagnosed with pneumococcal bacterial meningitis. See Pet’r Status Rep’t, filed Aug. 14, 2013. Moreover, when it appeared petitioner would not be able to prove entitlement, he filed a stipulation of voluntary dismissal. Stipulation, filed Oct. 18, 2013. Thus, because petitioner’s counsel acted in good faith and because there was a reasonable basis for proceeding, petitioner is eligible for an award of attorneys’ fees and costs. Respondent does not contend that petitioner failed to satisfy these criteria.

Petitioner seeks a total of **\$13,000.00** in attorneys’ fees and costs for his counsel. Respondent has no objection to the amount requested for attorneys’ fees and costs.

After reviewing the request, the Court awards a check made payable to petitioner and petitioner’s attorney, Donald P. Edwards, in the amount of **\$13,000.00** for attorneys’ fees and other litigation costs. The Court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.